

**STATE OF INDIANA – COUNTY OF SHELBY  
IN THE SHELBY CIRCUIT AND SUPERIOR COURTS**

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**Notice of Proposed Local Rule Amendment and Finding Good Cause to  
Deviate From Established Schedule  
June 15, 2011**

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The judges of the Shelby Circuit and Superior Courts, pursuant to Trial Rule 81(B), give notice of amendments to their local court rules and find good cause to deviate from the schedule for amending local rules under Trial Rule 81(D). All new text is shown by underlining and deleted text is shown by ~~striketrough~~. [Supreme Court approval is required for Local Rules concerning caseload allocation and may not take effect until approved by the Supreme Court.] Persons with Internet access may view the proposed amended local rule at the following websites:

[www.in.gov/judiciary/shelby/](http://www.in.gov/judiciary/shelby/)

Notice has been given to the public by posting on the website of the Shelby County Clerk and on the Indiana Judicial Website, and by furnishing a copy to the officers of the Shelby County Bar Association. Comments may be made until **July 15, 2011**, to:

David N. Riggins  
Judge, Shelby Superior Court II  
Courthouse  
407 S. Harrison Street,  
Shelbyville, IN 46176  
or  
Email: david.riggins@co.shelby.in.us

These rule amendments will be effective on **September 1, 2011**, subject to approval of the Indiana Supreme Court for those rules requiring approval.

DATED this 15th day of June, 2011 on behalf of the Judges of Shelby County.

\_\_\_\_\_/S/\_\_\_\_\_  
David N. Riggins, Judge  
Shelby Superior Court II

### **LR73-CR00 Rule 6 Probation Fees**

6.1) Any probationer who requests their probation be transferred to a department outside the state of Indiana shall pay a ~~\$75.00~~ \$125 fee to the Shelby County Probation Department through the Clerk of Shelby County.

### **LR73-AR00 Rule 2 Local Caseload Plans**

#### **I. 2.1 Caseload Allocation**

##### **2.1.1 A. Criminal Cases**

~~1.1~~ Criminal case allocation shall continue to operate as specified in **LR73-AR00 Rule 3 Local Caseload Plans Amended Joint Local Rule No. 1.**

##### **2.1.2 B. Civil Cases**

###### **2.1.2.1. Juvenile Cases**

~~a.2~~ All Juvenile cases (JC, JT, JD, JS, JM, and JP) shall continue to be filed in Shelby Superior Court No. 1

###### **2.1.2.2 Remaining Civil Cases**

~~a.2.1.2.2.1~~ All ~~Civil~~ Plenary (PL) cases shall be filed ~~alternately~~ 50/50 on a random basis in Shelby Circuit Court and Shelby Superior Court No. 1

~~b.2.1.2.2.2~~ All Domestic Relations (DR) cases shall be filed ~~alternately~~ 50/50 on a random basis in Shelby Circuit Court and Shelby Superior Court No. 1

~~c.2.1.2.2.3~~ All Reciprocal Support (RS) cases shall be filed in Shelby Circuit Court.

~~d.2.1.2.2.4~~ All Protective Orders (PO) cases shall be filed in Shelby Circuit Court

~~e.2.1.2.2.5~~ All Small Claims (SC) shall be filed in Shelby Superior Court No. 2

~~f.2.1.2.2.6~~ All remaining types of civil cases (AD, AH, CT, ES, EU, GU, MH, MI and TR) shall be filed as requested by the initiating party.

#### **II. Evaluation of Caseload Allocation**

**A.** The Allocation of Judicial Resources described herein should place the Shelby County Courts in compliance with guidelines issued by the Indiana Supreme Court's Order for Development of Local Caseload Plans. No later than March 1 of each year, the judges of the courts of record in Shelby County shall meet and evaluate the caseload data as reported to the Indiana Supreme Court Administration.

**B.** The caseload evaluation shall factor in the allocation of administrative duties among the judges as well as any special circumstances such as death penalty cases.

**C.** Special service by Shelby County judges outside their own courts or special, senior judges or transfer judges serving in the Shelby County Courts shall also be considered. Such service shall be calculated in accordance with the weighted caseload worksheet and criteria established by the Indiana Supreme Court Division of State Court Administration.

**D.** Modification or changes necessary for the Shelby County Courts to remain in compliance with the Order for Development of Local Caseload Plans shall be developed and approved by a majority vote of the judges and shall become effective on April 1 of each year.

Adopted as local Rule 1991-1, September 8, 1999, effective November 1, 1999.

Amended and renumbered as Rule 3, September 30, 2005, effective October 11, 2005.

~~<sup>1</sup>There is no Subd. I.A.2. in this rule~~

~~<sup>2</sup>There is no Subd. I.B.1.b. in this rule.~~

### **LR73-AR00 Rule 3 Local Caseload Plans**

#### **Criminal Cases**

All A, B & C pool felonies and murder as defined in Local Rule 73-CR2.2-1, shall be filed in the respective courts in the following percentages:

45% in Shelby Circuit Court

45% in Shelby Superior Court No. 1

10% in Shelby Superior Court No. 2

All misdemeanor and ~~non-pool class~~ D felonies under 9-30-5 shall be filed in Shelby Superior Court No. 2. The remaining D felonies shall be filed in the respective courts in the following percentages:

45% in Shelby Circuit Court

10% in Shelby Superior Court 1

45% in Shelby Superior Court 2

#### **Civil Cases**

Small claims and Infractions shall be filed in Shelby Superior Court No. 2.

Protective orders shall be filed in Shelby Circuit Court unless there is a related case in one of the other courts in which case the Protective Order case would be filed in the other court along with the related case.

Mortgage Foreclosure (MF), Plenary (PL), Civil Collections (CC), and Domestic Relations (DR) cases shall be filed on a 50/50 random ~~an alternate~~ basis between Shelby Circuit Court and Shelby Superior Court No. 1.

All other civil actions shall be filed in the court chosen by the initiating party.

#### **Juvenile Cases**

All juvenile cases shall be filed in Shelby Superior Court No. 1

The revised Caseload Allocation Plan is the current caseload plan with the only modification the assignment of pool felonies between Circuit and Superior Court 1 courts. This modification will bring the Shelby County Courts within the forty (40%) percent variance based on the weighted caseload measures system.

### **LR73-TR45 Rule 1. POOL FELONY<sup>1</sup>**

(b) 1.1 All A, B, & C felonies, ~~except class D felony Driving While Intoxicated cases~~ (hereafter “pool” felonies), shall be assigned on a random basis among the three courts by the Shelby County Clerk with Shelby Superior No. 1 receiving forty-five percent (45%) ~~sixty percent (60%)~~, Shelby Circuit Court forty-five percent (45%) ~~thirty percent (30%)~~ and Shelby Superior No. 2 receiving ten percent (10%) of said cases;

(~~1~~) 1.1.2 All co-defendants in “pool” felony cases shall be assigned to the same court, based upon a single random draw by the Shelby County Clerk.

~~1~~ 1.1.3 The Shelby County Prosecutor’s Office shall notify the Clerk at the time of filing if the cases involve co-defendant. ~~ii~~ Each co-defendant case will be assigned an individual cause number. ~~iii~~ For purposes of this Rule, the cases involve co-defendants ~~if~~ as provided by

~~1. the cases arise from a common scheme or plan;~~

~~2. the cases are closely connected in respect to time, place, occasion or events;~~

~~3. each of the defendants is charged with substantially the same or overlapping offenses;~~

~~4. one or more of the defendants is alleged to have aided, induced or conspired with another defendant to commit an offense charged; or~~

~~5. the defendants could be joined in the same indictment or information under I.C. 35-34-1-9 and amendments thereto.~~

(2) Except in felony cases involving co-defendants under ~~(b) (4)~~ 1.1.3 above, any new “pool” felony case filed against a defendant who has an open “pool” felony case already pending in any Court, shall be assigned to the Court where the current case is pending. ~~i.~~<sup>2</sup> The Shelby County Prosecutor’s Office shall notify the Clerk at the time of filing if the defendant has a pending pool felony case.

1.2 All misdemeanor cases and non-pool class D felonies under Indiana Code 9-30-5 shall be filed in Shelby Superior Court No. 2. The remaining D felonies (hereinafter “pool felonies”) shall be filed in the respective courts in the following percentages:

45% in Shelby Circuit Court

10% in Shelby Superior Court 1

45% in Shelby Superior Court 2.

*Joint Local Rule No. 1, amended effective October 1, 2001. Amended and renumbered as Rule 1, September 30, 2005, effective October 11, 2005. Amended 2011, effective Jan 1, 2012.*

<sup>1</sup>See, also, Criminal Rule 1 as to Subds. (a) and (c) to (g).

<sup>2</sup>There is no Subd. (b) (2)ii. in this rule.

### **LR73-CR2.2 Rule 1. Criminal caseload Assignment**

1.1 All misdemeanors and class D Felony ~~Driving While Intoxicated~~ cases under Indiana Code 9-30-5 et seq shall be filed in Shelby Superior No. 2;

1.2 All A, B, & C felonies (including murder), ~~except class D Felony Driving While Intoxicated cases, (hereafter “pool felonies”)~~ shall be assigned on a random basis among the three courts by the Shelby County Clerk with Shelby Superior No. 1 receiving ~~sixty~~ forty-five percent (45%) of said cases, Shelby Circuit receiving forty-five percent (45%) of said cases and Shelby Superior No. 2 receiving ten percent (10%) of said cases.

Except for the D felony cases under Indiana Code 9-30-5 et seq, the remaining D felony cases shall be allocated 45% each to Superior Court 2 and Circuit Court and the remaining 10% to Shelby Superior Court I.

1.3 The most serious level of charge filed determines if the case is assigned automatically to Shelby Superior No. 2 or if the case is randomly assigned by the Shelby County Clerk;

1.4 When the State of Indiana dismisses a pool felony case and chooses to refile that case, the case shall be assigned to the court from which dismissal was taken;

1.5 All co-defendants in pool felony cases shall be assigned to the same court based upon a single random draw by the Shelby County Clerk;

1.5.1(a) The Shelby County Prosecutor’s Office shall notify the Clerk at the time of filing if the cases involve co-defendants;

~~(b)~~ Each case will be assigned an individual cause number;

For purposes of this Rule, the cases involve co-defendants ~~if:~~ as provided by

~~1. the cases arise from a common scheme or plan;~~

- ~~2. the cases are closely connected in respect to time, place, occasion or events;~~
- ~~3. each of the defendants is charged with substantially the same or overlapping offenses;~~
- ~~4. one or more of the defendants is alleged to have aided, induced or conspired with another defendant to commit an offense charged;~~
- ~~or~~
- ~~5. the defendants could be joined in the same indictment or information under I.C. 35-34-1-9 and amendments thereto.~~

(1.6) Except in felony cases involving co-defendants as defined above, any new pool felony case filed against a defendant who has an open pool felony case already pending in any Court, shall be assigned to the Court where the current case is pending. The Shelby County Prosecutor's Office shall notify the Clerk at the time of filing if the defendant has a pending pool felony case.

(1.7) A judge of Shelby Circuit or a Superior Court may, by appropriate order entered in the Record of Judgments and Orders, transfer and reassign to any other court of record in the county with jurisdiction to hear the charged offense(s), any pending case subject to acceptance by the receiving court, where the interests of justice or the interest of judicial economy so require.

(1.8) The prosecuting attorney or the defendant may seek to transfer a case, and upon good cause shown, a case may be transferred to any of the other courts for consolidation with a companion case, or with other cases pending in that court against the defendant with the acceptance of the judge of the receiving court.

(1.9) In the event a motion for change of judge is granted or it becomes necessary to reassign a felony or misdemeanor case in Shelby Circuit or Shelby Superior Courts, the Clerk shall maintain a list containing the names of the judges of the Shelby County Courts and the names of the judges of the circuit and superior courts of Hancock, Rush, Decatur, Bartholomew and Johnson Counties, who have agreed to serve. Whenever an appointment of a successor judge becomes necessary the case shall be reassigned to one of the judges on the Clerk's list on a rotation basis.

(1.10) Should a judge not be available for assignment from the Clerk's list or the particular circumstances of the case require a selection of a special judge by the Indiana Supreme Court, the case shall be certified to the Indiana Supreme court pursuant to Criminal Rule 13(d).

*Adopted as Joint Local Rule No. 1, effective October 11, 2001. Amended and renumbered as Rule 1, September 30, 2005, effective October 11, 2005. Amended on April 8, 2009. Amended 06-14-2011 17, 2011.*